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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,681	03/05/2004	James Benjamin Moates	20776-168 US	4823
23526	7590	03/23/2005	EXAMINER	
NORRIS MCLAUGHLIN & MARCUS, P.A. P O BOX 1018 SOMERVILLE, NJ 08876			COLLINS, TIMOTHY D	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,681

Applicant(s)

MOATES, JAMES BENJAMIN

Examiner

Timothy D Collins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1 "an external store" is not positively recited and claimed. In claim 1 the "store" is stated, however it is merely in functional language and therefore not positively claimed, for example see the preamble and also the last 2 lines of claim 1. Also in claim 2, in line 2, the "external store" is now being claimed, and therefore does not make sense with claim 1. It is suggested that the applicant positively recite and claim an "external store" on an aircraft in claim 1. Also in claim 7, the external store and the aircraft are once again claimed, however they were not previously positively claimed. These discrepancies in the claims must be fixed.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by USPN 4714229 to Force et al. (hereinafter called 229).

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a. Re claim 1, 229 discloses a hanger with a band with an arcuate center panel 2a with first and second ends (near the hinges which are approximately 6 and 7 at each side), also seen are the first and second side panels 2b and 2c which each have first and second ends. Also in 229 it can be seen that there is an interface at the bottom with a fastening means for coupling the panels together in a circular configuration that is adjustable in that it can be tightened with the fastener. Note: the "to apply a predetermined radial loading to an external store" is taken as functional language. Therefore the limitations of the claim are met.

b. Re claim 7, 229 discloses that the center panel, defines an aperture through which a hardware interface can be established between the store and the aircraft at about number 3. Also Note that the claim states "hardware interface can be established", this is not positively claimed and therefore it is taken as functional language stating that an interface may be present and may not be present therefore also a bending moment may or may not be present and the examiner chooses the case that the bending moment is not present because there is no actual interface present. Note: The examiner suggests that the applicant positively claim these pieces in combination with a positively claimed "external store on an aircraft".

5. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by USPN 3357432 to Sparks (hereinafter called 432).

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c. Re claim 1, 432 discloses a band, with hinges and arcuate panels and interface and fastener.

d. Re claim 7, 432 discloses apertures in the band.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2,4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over 229 as seen above.

e. Re claim 2, 229 may not specify that the band is around an "external store" however it does disclose that it is around a pipe. A pipe is a round tubular object and so is a missile (which is a type of store). Also 229 discloses securing a pipe to an object with an interface, therefore it would have been obvious to one of ordinary skill in the art to have applied the teachings of missiles into the device of 229 so as to secure a missile to an object. This would be done to protect the missile from shocks and rapid movements as is also taught in the case of pipes in the specification of 229 at least in column 1 at lines 29-35.

f. Re claim 4, 229 may not disclose specifically that the length is between about 8 and 15 inches, however it would have been obvious to one of ordinary skill in the art through routine testing and experimentation to make the device of

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any size that is appropriate to the object which is to be held by the device. This would be done so as to hold objects securely as is seen in 229.

g. Re claim 5, 229 may not disclose specifically that the thickness is between .190 and .375 inches, however it would have been obvious to one of ordinary skill in the art through routine testing and experimentation to make the device of any size that is appropriate to the object which is to be held by the device. This would be done so as to hold objects securely as is seen in 229.

h. Re claim 6, 229 may not specifically disclose that the band, interface and fastening means includes high strength steel however it is old and well known in the art to use high strength steel in fasteners and clamp bands. Therefore it would have been obvious to one of ordinary skill in the art to have applied the well known high strength steel into the device of 229 so as to make a strong clamping mechanism and fastening mechanism to hold parts together.

Allowable Subject Matter

8. Claim 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. This is contingent on the "external store" and aircraft being positively claimed and recited clearly.

Conclusion

9. NOTE: it is suggested that the applicant positively claim the aircraft and the store with the hanger assembly as previously claimed similarly to claims 2 or 7. This is to suggest that the functional language must be clearly positively claimed.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art discloses missile hangers.

- i. USPN 2833494
- j. USPN 2896509
- k. USPN 3367233
- l. USPN 4448373
- m. USPN 4802641
- n. USPN 5406876

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D Collins whose telephone number is 703-306-9160. The examiner can normally be reached on M-Th, 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Timothy D. Collins
Patent Examiner
Art Unit 3643



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3/17/05